

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMEL POWELL,

Plaintiff,

-v.-

THE CITY OF NEW YORK and THE
DEPARTMENT OF CORRECTIONS,

Defendants.

23 Civ. 10263 (KPF)

ORDER OF SERVICE

KATHERINE POLK FAILLA, District Judge:

Plaintiff, who is proceeding *pro se* and *in forma pauperis*, asserts claims against the City of New York and the New York City Department of Correction (the “DOC”). As set forth in this Order, the Court dismisses the claims against the DOC and asks the City of New York to waive service of summons.

DISCUSSION

A. Claims Against the Department of Correction

Plaintiff’s claims against the DOC must be dismissed because an agency of the City of New York is not an entity that can be sued. *See* N.Y. City Charter ch. 17, § 396 (“[A]ll actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the city of New York and not in that of any agency, except where otherwise provided by law.”); *Jenkins v. City of New York*, 478 F.3d 76, 93 n.19 (2d Cir. 2007); *see also Emerson v. City of New York*, 740 F. Supp. 2d 385, 396 (S.D.N.Y. 2010) (“[A] plaintiff is generally prohibited from suing a municipal agency.”). The Court therefore

dismisses the claims brought against the DOC for failure to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

B. Waiver of Service of Summons

The Clerk of Court is directed to notify the New York City Department of Correction and the New York City Law Department of this Order. The Court requests that the City of New York waive service of summons.

CONCLUSION

The Court hereby DISMISSES the claims brought against the DOC for failure to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii). The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to notify the New York City Department of Correction and the New York City Law Department of this Order. The Court requests that the City of New York waive service of summons.

The Clerk of Court is directed to mail a copy of this Order to Plaintiff at his address of record.

SO ORDERED.

Dated: December 21, 2023
New York, New York



KATHERINE POLK FAILLA
United States District Judge